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DATE: April 17, 1996

TO: Director Nick Godici

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5/31/91IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of |) | |
| GILBERT P. HYATT |) | Group Art Unit: 2613 |
| Serial No. 08/464,034 |) | Examiners: Joseph Mancuso |
| (See Appendix-I for |) | Gerard Del Rosso |
| 29 other applications) |) | Team Exam-Six |
| Docket No. 751 |) | |
| Filed: June 5, 1995 |) | |
| For: IMPROVED IMAGE PROCESSING |) | |
| ARCHITECTURE |) | |

PETITION UNDER 37 CFR 1.181(A)(3)

Hon. Assistant Commissioner
For Patents
Washington, D.C. 20231

Sir:

I ACTION REQUESTED

This is a petition requesting intervention of the Commissioner to have withdrawn each of 30 Office actions that preempted preliminary amendments in the 30 subject applications listed in Appendix-I and requesting the PTO to allow the Applicant a reasonable time to file supplemental amendments in the 30 subject applications, such as at an average rate of five supplemental amendments per week.

II STATEMENT OF FACTS INVOLVED

2.1 Background

The 30 subject applications (Appendix-I) are related to inventions pertaining to a display system. These 30 applications were assigned to a PTO team of examiners in Art Unit 2613.

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The Applicant filed 49 related applications, including the 30 subject applications, each of which was entitled IMPROVED IMAGE PROCESSING ARCHITECTURE. Each of said 49 related applications was filed as a copy of the original disclosure, including the original claims (claims 1-20), of ancestor application S/N 06/663,094. The Applicant filed a preliminary amendment in each of said 49 related applications in September 1995.

The preliminary amendment in each of said 49 related applications (including the 30 subject applications) canceled the 20 original claims and substituted new claims to diversify the claims from the identical original claims as filed. Because the Applicant is prosecuting all of said 49 related applications, in addition to other pending applications, by himself as a pro se inventor (the Applicant is a registered patent agent) and because the Applicant was heavily overloaded with patent prosecution, the preliminarily amended claims were similar, but not identical, between all of said 49 related applications.

The Applicant received a first action in 43 of said 49 related applications. However, said 43 first actions did not consider the preliminary amendment, but instead addressed the original 20 claims that were canceled in the preliminary amendments. As discussed below, said 43 first actions were subsequently withdrawn. The Applicant has never received an action in any of the other six of said 49 related applications.

2.2 A Petition In Other Applications Of This Applicant

The Applicant makes reference to a petition dated December 22, 1995 ("the referenced Petition") concerning other applications including application Serial No. 08/464,032 (which are different from the 30 subject applications herein); a decision on the referenced Petition dated February 9, 1996 ("the Decision on the referenced Petition"); a Request For Reconsideration of this petition dated February 29, 1996 ("the referenced Request For Reconsideration"); a Supplemental Request For Reconsideration of this petition dated March 12, 1996 ("the

referenced Supplemental Request For Reconsideration"); and a decision on reconsideration dated March 21, 1996 ("the Decision on the referenced Request For Reconsideration").

The referenced Petition was granted in part, withdrawing the actions in 22 of the 44 other applications. Although the referenced Request For Reconsideration was denied, the finality of the action was withdrawn in each of the remaining 22 applications in the interest of justice and because of the "extenuating circumstances".

2.3 The Meetings In October 1995

The Applicant traveled to the PTO and met with Director Godici on October 24, 1995. The substance of the discussions that are relevant to the 30 subject applications is paraphrased below.

The meeting with Director Godici was paraphrased in the referenced Petition, an excerpt therefrom is attached hereto as Appendix-II. The referenced Petition was granted in part and denied in part in a decision dated February 13, 1996.

In the meeting with Director Godici, the Applicant explained that said 43 first actions (which are related to different applications than the 44 other applications that were the subject of said December 22, 1995 petition) had crossed in the PTO mail with the preliminary amendments. Director Godici said that such actions that crossed in the mail with preliminary amendments would be withdrawn. In fact, the first actions in each of said 43 related applications were subsequently withdrawn; 13 of which were subsequently withdrawn in a decision dated February 13, 1996 on a petition dated February 5, 1996 regarding crossing in the mail and the other 30 of which (related to the 30 subject applications) were withdrawn when the PTO generated 30 supplemental actions, each dated November 22, 1995. Withdrawal of these 30 supplemental actions is the subject of the instant petition.

In the meeting with Director Godici, the Applicant agreed to file supplemental preliminary amendments having focused claims in

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said 49 related applications, as suggested by Director Godici. As discussed in the referenced Petition that was granted in part (Appendix-II attached hereto), Director Godici asked the Applicant to file supplemental preliminary amendments that better focused the claims on a different invention in each application in order to simplify examination. The Applicant said that he would diligently work to do as Director Godici had suggested, that he would generate amendments that focused the claims on different inventive features at the rate of five amendments per week for his applications that were pending in group 2600 (including said 49 related applications, which in turn included the 30 subject applications). In fact, the Applicant generated preliminary amendments at a rate more than twice the objective of five per week until receipt of the supplemental actions dated November 22, 1995. The relevance of the supplemental actions dated November 22, 1995 is discussed below.

In that meeting, Director Godici explained that long delays were being encountered through the PTO mail room. The Applicant agreed to have his Washington associate hand-deliver the supplemental preliminary amendments directly to group 2600 to eliminate the long delays that were being encountered in the PTO mail room. The stated objective was for the examiners to have applications with focused claims for examination while the Applicant was generating amendments to focus the claims in the other ones of his applications pending in Group 2600. In fact, the Applicant's Washington associate did hand-deliver more than 45 preliminary amendments to Group 2600 (an average of more than 10 per week) in a period of approximately four weeks between the Applicant's return from the PTO and the time the Applicant received the supplemental actions dated November 22, 1995. Of said 45 preliminary amendments filed by the Applicant during this period, 18 preliminary amendments were for applications included in said 49 related applications, leaving only 31 of said 49 amendments without focused claims. These 31 applications include the 30 subject applications.

The Applicant met with Examiner Mancouso, the team leader of the team examining said 49 related applications (including the 30 subject applications), and his SPE, Mr. Razavi, on October 26, 1995. SPE Razavi, Examiner Mancouso, and the Applicant discussed the Applicant's intent to immediately begin filing amendments having focused claims in said 49 related applications, hand-delivery of these amendments to Mr. Mancouso, SPE Hjerpe's assignment by Director Godici (see Appendix II attached hereto), and examination of the amendments having focused claims when they were hand-delivered.

2.4 The Applicant Fully Complied With
Director Godici's Suggestions

The Applicant fully complied with Director Godici's suggestions. See Appendix II attached hereto. The Applicant proceeded to file amendments having focused claims in said 49 related applications and to have these amendments with focused claims hand-delivered to Examiner Mancouso. The Applicant filed more than 45 amendments with focused claims, including amendments having focused claims in 18 of said 49 related applications (in addition to more than 25 amendments having focused claims in other ones of the Applicant's applications pending in Group 2600) in the four week period immediately following the Applicant's return from the PTO.

Then, unexpectedly, without a telephone call or other notification, 30 supplemental actions each dated November 22, 1995 were mailed by the PTO in the 30 subject applications. All of these supplemental actions are substantially the same.

2.5 The Meeting and Telephone Conversations
With Deputy Director Lynch

The Applicant traveled to the PTO and met with Deputy Director Lynch (in the absence of Director Godici) and with SPE Hjerpe on March 5, 1996. The substance of the discussions that are relevant to the 30 subject applications is paraphrased below.

The meeting with Mr. Lynch was paraphrased in Section 2.2 of the referenced Supplemental Request For Reconsideration, an excerpt therefrom is attached hereto as Appendix-IV.

In that meeting with Mr. Lynch, the Applicant explained that the supplemental actions preempted the filing of amendments having focused claims in the 30 subject applications. The Applicant also verbally requested withdrawal of the 30 supplemental actions and an opportunity to file amendments having focused claims in said 30 applications. Mr. Lynch said that he would check into this matter and that he would speak with Director Godici.

Mr. Lynch and the Applicant had a telephone conversation on April 5, 1996. The Applicant inquired about the status of the Mr. Lynch's inquiry into withdrawal of the 30 supplemental actions. Mr. Lynch said that he would check into the status of this matter. Mr. Lynch telephoned the Applicant on April 8, 1996 and told the Applicant that the 30 supplemental actions would not be withdrawn. The Applicant discussed with Mr. Lynch the suitability of a petition for withdrawal of the 30 supplemental actions with Mr. Lynch.

The instant petition is in direct response to the April 8, 1996 telephone conversation with Mr. Lynch regarding withdrawal of the supplemental actions in the 30 subject applications.

2.6 The 30 Subject Applications Were Improperly
Examined Out Of Turn

Notwithstanding the contentions made in the Decision on the referenced Request For Reconsideration, the Applicant submits that the 30 subject applications were improperly examined out of turn with the applications of other applicants and with the applications of the present Applicant.

The issue of the examination out of turn was argued in the referenced Request For Reconsideration and is relevant to the examination out of turn of the 30 subject applications. This discussion is excerpted in Appendix-III, attached hereto. In particular, Section 2.2 of Appendix-III addresses the examining

out of turn with applications of other applicants and Section 2.3 of Appendix-III addresses the examining out of turn with applications of the instant Applicant. Although the applications that are the subject of the referenced Request For Reconsideration are different from the 30 subject applications herein, the substance of these discussions are relevant to the 30 subject applications in the instant petition.

2.7 The Action In Group 2600 Is Inconsistent With
The Customer Focus Policy Espoused By The Commissioner

Notwithstanding the contentions made in the Decision on the referenced Request For Reconsideration, the Applicant submits that the action of Group 2600 is inconsistent with the customer focus policy of the Commissioner, which policy mandates fair and equitable treatment. It is believed that the action taken by Group 2600 rises to the level of arbitrary and capricious treatment.

The action of Group 2600 is inconsistent with the action of Group 2300 (both groups are in the PTO electrical cluster) in implementing the Commissioner's customer focus policy, as discussed below. Consistent and fair treatment of applicants is an important issue.

The issues of violating the Commissioner's customer focus policy and the inconsistency of the customer focus policy as implemented by Group 2600 and Group 2300 were argued in the referenced Supplemental Request For Reconsideration and are relevant to the examination of the 30 subject applications. This discussion is excerpted in Appendix-IV, attached hereto. In particular, Section 2.2 of Appendix-IV addresses the Commissioner's customer focus policy and the treatment of other ones of the Applicant's applications by Group 2300 in compliance therewith and Section 2.3 of Appendix-IV addresses the violation of the Commissioner's customer focus policy and the inconsistent treatment of the Applicant's applications by Group 2600.

2.8 The Applicant Had A Reasonable Expectation
Of An Opportunity To File Focused Amendments

The Applicant submits that Group 2600 knew that the Applicant intended to file and was preparing amendments having focused claims in the 30 subject applications and hence the mailing of 30 supplemental actions, unexpectedly and without a telephone call or other notification supra, was improper. This issue was argued in Section 2.4 of the referenced Request For Reconsideration and is relevant to the examination of the 30 subject applications. This discussion is included in Appendix-III, attached hereto. Although the applications that are the subject of the referenced Request For Reconsideration are different from the 30 subject applications herein, the substance of these discussions are relevant to the 30 subject applications in the instant petition.

Further, the team of examiners for the 30 subject applications knew that the Applicant was in the process of preparing amendments having focused claims in accordance with Director Godici's suggestions because of the meeting with SPE Razavi and Examiner Mancouso, because the Applicant had already filed amendments having focused claims in 18 of said 49 related applications in the immediately preceding three and one half week period, and because all of said 18 amendments with focused claims had been hand-delivered to and filed by Group 2600 before the supplemental amendments were mailed on November 22, 1995.

It is important to note that, to the present day (about five months later), the Applicant has not received an action on a single one of said 18 related applications having focused claims.

III CONCLUSION

The generating of actions in the 30 subject applications goes against public policy, goes against the Commissioner's customer focus program, is not in the interest of justice, and is believed to be unconstitutional since it violates the Applicant's right to due process guaranteed by the Fifth Amendment to the U. S. Constitution. This is particularly important in view of the facts that the Applicant was diligent, that the Applicant diligently worked to meet (and more than met) the suggestions of Director Godici, that Group 2600 encouraged the Applicant to file the amendments having focused claims, that Group 2600 did not notify the Applicant of any change in policy regarding filing such amendments, that Group 2600 did not examine any of said 18 related applications having focused claims, that the 30 subject applications were examined out of turn with other applications of the same inventor and out of turn with applications of other inventors, and that the Applicant reasonably expected to be able to file amendments and was diligently filing amendments having focused claims in the 30 subject applications.

The Applicant should not be penalized because he could only file 18 amendments having focused claims in said 49 related applications (in addition to more than 25 amendments having focused claims in other ones of the Applicant's applications pending in Group 2600) in the three and one half week period between return to his office after the meeting with Director Godici and the mailing of the supplemental actions by the PTO in the 30 subject applications. The Applicant is prosecuting said 49 related applications pro se without any patent attorney assistance. The Applicant has invested heavily in time and resources to research and to develop his technology and to apply for patents and the Applicant has paid significant PTO fees. Hence, the Applicant has a right to expect an opportunity to amend each application to provide focused claims that are substantially different from the claims in each of the other related applications.

IV RELIEF REQUESTED

The Applicant respectfully petitions for the supplemental actions to be withdrawn in each of the 30 subject applications listed in Appendix-I and for the PTO to allow a reasonable time for the Appellant to file an amendment having focused claims in each of the 30 subject applications, such as at an average rate of five amendments per week.


If separate copies of this petition are necessary for placement in the file wrapper of each of the 30 applications identified in Appendix-I, the Applicant will promptly provide same upon notice that such is necessary.

Please charge any fees associated with the papers transmitted herewith to Deposit Account No. 08-3626. A Declaration claiming small entity status has been filed in each of the 30 subject applications listed in Appendix-A.

CERTIFICATION OF TRANSMISSION: I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 308-5401) on April 17, 1996.

Dated: April 17, 1996

Respectfully submitted,



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APPENDIX-ISUBJECT PATENT APPLICATIONS

| <u>DKT.</u> <u>NO.</u> | <u>SERIAL</u> <u>NO.</u> |
|---------------------------|-----------------------------|
| 751 | 08/464,034 |
| 755 | 08/465,173 |
| 756 | 08/465,071 |
| 759 | 08/463,822 |
| 760 | 08/465,072 |
| 766 | 08/465,200 |
| 769 | 08/465,199 |
| 770 | 08/465,658 |
| 773 | 08/469,261 |
| 776 | 08/466,600 |
| 777 | 08/466,599 |
| 778 | 08/469,407 |
| 780 | 08/471,542 |
| 781 | 08/469,321 |
| 782 | 08/471,695 |
| 784 | 08/471,600 |
| 785 | 08/471,701 |
| 786 | 08/471,123 |
| 787 | 08/471,425 |
| 788 | 08/471,136 |
| 789 | 08/469,580 |
| 790 | 08/469,889 |
| 791 | 08/469,888 |
| 792 | 08/466,557 |
| 793 | 08/470,569 |
| 794 | 08/471,846 |
| 795 | 08/469,592 |
| 796 | 08/469,060 |
| 797 | 08/471,255 |
| 798 | 08/471,042 |

APPENDIX-II

EXCERPT FROM THE PETITION DATED DECEMBER 22, 1995
CONCERNING 44 OTHER APPLICATIONS
INCLUDING APPLICATION SERIAL NO. 08/464,032

"II STATEMENT OF FACTS INVOLVED2.1 Background

* * * *

Director Godici met with the Applicant on October 24, 1995. The crossing in the mail of the preliminary amendments and the first actions was discussed. The Applicant was asked to file supplemental preliminary amendments that better focused the claims on a different invention in each application in order to simplify examination and the Applicant agreed. The Applicant was asked to provide (a) a list of the serial numbers of his recently filed applications and (b) a list of the applications that already have focused claims in order to guide the examiners as to which applications were more suitable for examination and the Applicant agreed. Director Godici selected Mr. Richard Hjerpe, SPE of art unit 2609, to receive this information and to distribute it to the relevant art units in group 260 and in group 230. The Applicant further agreed to generate at least one supplemental preliminary amendment per day, five per week, and the Applicant agreed to have these supplemental preliminary amendments hand carried to the relevant group by his Washington associate in order to shorten the delays experienced through the PTO mail room. It was the Applicant's understanding that the first actions had been or would be withdrawn, that the Applicant would be given time to file supplemental preliminary amendments before new actions would be generated, and that new actions would be generated in the applications that were on the list of the applications having focused claims.

Immediately after returning to his office, the Applicant generated and transmitted by facsimile the two lists to SPE Hjerpe and the Applicant supplied subsequent updates to the list of the applications having such focused claims. The Applicant proceeded to diligently generate supplemental preliminary amendments and to have his Washington associate hand deliver these amendments to the relevant groups. The Applicant has more than doubled his initial objective of five supplemental preliminary amendments per week and the Applicant continues to generate the supplemental preliminary amendments.

On December 14, 1995; SPE Hjerpe telephoned the Applicant concerning applications that are scheduled to be examined early in 1996 and SPE Hjerpe transmitted by facsimile to the Applicant a list of these applications. In response thereto, the Applicant expeditiously filed a preliminary amendment in application S/N 08/464,520 and confirmed that the applications on the list were in good condition for examination."

APPENDIX-III
EXCERPT FROM THE REQUEST FOR RECONSIDERATION
DATED FEBRUARY 29, 1996
CONCERNING 44 OTHER APPLICATIONS
INCLUDING APPLICATION SERIAL NO. 08/464,032

"II STATEMENT OF FACTS INVOLVED

* * * *

2.2 The Subject Applications Were Improperly Examined
Out Of Turn With Applications Of Other Applicants

There can be no question that the 22 subject applications were examined out of turn with the applications of other applicants. In September 1995, Group 2600 was examining new applications that were filed on December 28, 1993. See the "New Case Date" for Group 2600 (1178 OG 49 dated September 12, 1995). However, each of the 22 subject applications was filed in June 1995 and was examined in September 1995 with an action dated September 21, 1995. Hence, the examination of the 22 subject applications was advanced more than 17 months out of turn (December 1993 to June 1995).

Notwithstanding any provision in the MPEP to the contrary, the Code of Federal Regulations at section 37 CFR 1.101 is specific that applications are to be taken up for examination based upon the actual filing date of the application.

Applications shall be taken up for examination * * *
in the order in which they have been filed * * *.

(37 CFR 1.101)

37 CFR 1.101 permits only two exceptions to this requirement, (a) special treatment under 37 CFR 1.102 and (b) international applications under 37 CFR 1.496. However, neither of these two exceptions pertains to the 22 subject applications. Hence, the examination of the 22 subject applications out of turn violates 37 CFR 1.101.

In view of the above, it is clearly required that this diligent applicant have his applications examined in turn in accordance 37 CFR 1.101 and not be pre-empted by examination of his applications out of turn.

2.3 The Subject Applications Were Improperly Examined Out Of Turn With The Applicant's Earlier Filed Amended Applications

The Applicant proceeded to file preliminary amendments in the earlier filed ones of the 63 related applications, progressing to filing preliminary amendments in the later filed applications. The Applicant reasonably expected that the earlier filed applications would be examined first and hence that he would be able to complete the filing of the preliminary amendments before examination had progressed to the later filed applications.

However, the 22 subject applications were examined out of turn. Earlier filed applications having preliminary amendments with claims that are significantly different from the claims of the other applications have never been examined (even to this day) while the 22 later filed applications in which the Applicant was in the process of filing preliminary amendments were examined out of turn. For example, application Serial No. 08/417,530 filed on April 6, 1995 has still not to this day been examined (almost 11 months later) while the subject 22 applications (which were all filed almost two months later, between June 2 and June 5, 1995) were all examined on or about September 22, 1995 (less than 4 months later). The '530 application is one example of 14 earlier ones of these 63 related applications that were filed before June 1995 and that do not as yet have a first action.

The only substantive difference between these 14 earlier filed applications and the subject 22 later filed applications is that each of these 14 earlier filed applications have a set of claims (amended in an early preliminary amendment) that is significantly different from the claims in all of the related applications and hence would need a specific examination while

the subject 22 later filed applications had identical sets of original claims that permitted substantially identical actions to be generated for all of the 22 later filed applications. This same substantive difference is also true for the rest of the 44 applications that were the subject of the original petition.

Notwithstanding the Patent Rules prohibiting examining of applications out of term, except in two cases that are irrelevant to the 22 subject applications (Section 2.2 above); it is inconceivable how the examining of the 22 subject applications out of turn with the 14 substantially identical earlier filed applications can be condoned. Certainly, the preliminary amendments in the 14 earlier filed applications should support earlier examination thereof, not earlier examination of the 22 later filed and non-amended applications.

In view of the above, it is only fair and reasonable for this diligent applicant to have his applications examined in turn with his earlier filed amended applications and not be pre-empted by examination of later filed applications out of turn.

2.4 The Applicant Had A Reasonable Expectation Of An Opportunity To File Preliminary Amendments

It is reasonable to expect that the team of examiners would recognize that the applicant intended to and was in the process of filing preliminary amendments in the 63 substantially identical applications. Certainly, there is no purpose to filing 63 applications with identical claims unless the Applicant intended to file preliminary amendments in at least 62 of these 63 applications. Certainly, the filing of well differentiated sets of claims in 14 earlier filed ones supra of the 63 applications would indicate an intent to continue filing preliminary amendments in the later filed ones of the 63 applications. Certainly, the prosecution of a large group of applications by a single pro se inventor (who is also a registered patent agent) would indicate that the filing of 63 well differentiated preliminary amendments could not all be accomplished immediately after filing the applications. Yet, the

Applicant's applications were not examined in turn and the Applicant was not given a telephone call inquiring whether preliminary amendments had been filed or were in the process of being filed. Such a telephone call would have eliminated unnecessary actions and petitions and would have given the Applicant a proper examination to which he is entitled.

Such a telephone practice would have been particularly appropriate because of unusual delays in the PTO receiving branch, which was indicated to be caused by the June 1995 increase in patent applications and to be caused by a new contractor performing application receiving functions in the PTO. For example, a preliminary amendment was filed in application Serial No. 08/460,092 on September 25, 1995 and an action was mailed in this application on November 20, 1995 (almost 2 months later) without considering the preliminary amendment; presumably because the preliminary amendment had not yet been placed in the file wrapper after almost 2 months."

APPENDIX-IV
SUPPLEMENTAL REQUEST FOR RECONSIDERATION
CONCERNING 44 OTHER APPLICATIONS
INCLUDING APPLICATION SERIAL NO. 08/464,032

"II SUPPLEMENTAL STATEMENT OF FACTS INVOLVED

2.1 Supplemental General Discussion

The Applicant met with the Deputy Director of Group 2600, Mike Lynch, on March 5, 1996. Mr. Lynch told the Applicant that consistency is an important consideration in evaluating the issues involved in the subject petition. The Applicant said that the customer focus policy of Group 2600 is inconsistent with the customer focus policy of the Commissioner and is inconsistent with the customer focus policy of Group 2300. Mr. Lynch said that he would check into this issue. This Supplemental Request addresses relevant facts associated with consistency.

2.2 The Customer Focus Policy Of Both The Commissioner And Group 2300 Require That A Customer Be Treated Fairly

The Group 2300 policy is consistent with the Commissioner's customer focus policy of being fair to customers. Group 2300 recognized that the Applicant intended to generate preliminary amendments and Group 2300 gave the Applicant a telephone call and an opportunity to file preliminary amendments before generating actions. Group 2300 is flexible on granting petitions regarding crossing-in-the-mail of actions and preliminary amendments, as discussed below.

SPE Thomas Lee telephoned the Applicant on November 17, 1995 and explained that certain ones of the Applicant's applications that were assigned to Group 2300 were scheduled for examination and that Director Gray had allowed two weeks for the Applicant to file preliminary amendments in these applications. The Applicant asked for additional time (beyond the two weeks) to file preliminary amendments in these applications and SPE Lee said

that he would discuss this request with Director Gray. The Applicant was in fact permitted more than two weeks to file preliminary amendments in these applications.

SPE Lee also explained that other ones of the Applicant's applications were assigned to Group 2300 and would soon be scheduled for examination and that the Applicant had additional time (beyond the two weeks) to file preliminary amendments in these applications.

SPE Lee asked the Applicant to have the preliminary amendments hand carried to him for expediency and the Applicant agreed.

* * * *

2.3 Group 2600 Is Not Consistent With The Customer Focus Policy Of Either The Commissioner Or Group 2300

The Group 2600 policy is not consistent with the Commissioner's customer focus policy of being fair to customers and is not consistent with the customer focus policy of Group 2300.

As discussed in the Request, Group 2600 must certainly have recognized that the Applicant intended to file and was filing preliminary amendments. However, Group 2600 did not give the Applicant a telephone call and did not give the Applicant an opportunity to file preliminary amendments as did Group 2300. Instead, Group 2600 generated final first actions out of turn with the Applicant's amended applications and without warning to the Applicant when it must have been apparent that the Applicant was generating preliminary amendments in turn. This is discussed in more detail in the Request. Then, Group 2600 denied the petition regarding crossing-in-the-mail because of a one day or a two day period between the mailing of an action and the filing of a preliminary amendment. This denial is inconsistent with the flexible customer focus policy of Group 2300 regarding crossing-in-the-mail petitions."